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Attorneys for Plaintiff  
Klauber Brothers, Inc.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- -X	
KLAUBER BROTHERS, INC.,	:
	:
Plaintiff	:
	:
Civil Action No.: 07 CV 6133	:
	:
v.	:
	:
DREAMWEAR, INC.	:
	:
Defendant.	:
	:
----- -X	

Plaintiff Klauber Brothers, Inc. (hereinafter referred to as "Plaintiff") through its attorneys, complaining of Defendant Dreamwear, Inc. (hereinafter referred to as "Dreamwear" or "Defendant") alleges as follows:

**JURISDICTION AND VENUE**

1. This action arises under the U.S. Copyright Act of 1976, 17 U.S.C. §§ 101 et seq. Jurisdiction is vested in this Court for this action under 28 U.S.C. §§ 1331 and 1338 (a).

2. Venue is proper in this district for this action under 28 U.S.C. § 1391 in that the Defendant has a place of business in this district and, upon information and belief, a substantial part of the events giving rise to the claims asserted in this action occurred in this district.

### **THE PARTIES**

3. Klauber is a corporation duly organized and existing under the laws of the State of New York, with its principal place of business at 980 Avenue of the Americas, New York, New York 10018.

4. Defendant is, upon information and belief, a corporation organized and existing under the laws of the State of New York, having a place of business within the jurisdiction of this Court, at 193 Madison Avenue, 10<sup>th</sup> Floor, New York, New York 10016.

### **FACTS**

5. Klauber is, and since 1859 itself or through a predecessor-in-interest, has been engaged in the design, manufacture and sale of knit fabrics of original and distinctive design and has, over the past decades, earned a well deserved and enviable reputation in the trade for providing unique and original fabric designs of high quality. Klauber sells its fabric designs within this judicial district, throughout the United States of America and throughout the world.

6. In or about 1985, an original design was created in lace fabric which Klauber designates as design number 565.

7. Said 565 fabric design contains material which is wholly original and is copyrightable subject matter under the laws of the United States of America.

8. On or about April 1, 1985, Klauber's 565 fabric design was published.

9. Since the publication date of the 565 fabric design, all of the provisions of Title 17 of the United States Code, and all of the laws governing copyright have been duly complied with by Klauber which applied to register the claim to copyright therein, and a Certificate of Copyright Registration has been duly received by Klauber from The Register of Copyrights pertaining to said fabric design No. 565.

10. Klauber is, and for all times relevant hereto has been, the sole proprietor of all right, title and interest in and to the copyright in said fabric design No. 565.

11. A photostatic copy of a portion of said fabric design No. 565 is annexed hereto and identified as "Exhibit A."

12. A photostatic copy of the Copyright Registration Certificate obtained by Klauber for said fabric design No. 565 is annexed hereto and identified as "Exhibit B."

13. Subsequent to the publication by Klauber of its fabric design No. 565, Defendant infringed Klauber's copyright in such fabric design by importing, reproducing, displaying, knitting, manufacturing, weaving, printing, reprinting, publishing, vending, distributing, selling, promoting or advertising, a garment including

a copy of said fabric design or by causing and/or participating in such importing, reproducing, displaying, knitting, manufacturing, weaving, printing, reprinting, publishing, vending, distributing, selling, promoting or advertising thereof, all in violation of the rights of Klauber under Section 106 of the Copyright Law, Title 17 of the United States Code.

14. Klauber has notified Defendant that it has infringed the copyright of Klauber of Exhibit B by its garment including such fabric design and, upon information and belief, Defendant has continued to infringe such copyright and such infringement continues to be available.

15. All of the Defendant's acts as set forth herein were performed without the permission, license or consent of Klauber.

16. Klauber has been damaged by the acts of Defendant alleged in this action in an amount not as yet known, but believed to be in excess of Five Hundred Thousand Dollars (\$500,000).

WHEREFORE, Plaintiff Klauber demands:

A. A preliminary and permanent injunction restraining, enjoining and prohibiting Defendant and its officers, servants, agents, employees, attorneys and representatives, and each of them, and those persons in active concert or participation with it or them from infringing the copyright of Plaintiff Klauber including as evidenced by certificate of Copyright Registration Certificate Number VA 196 346, including,

but not limited to, preventing it and them from importing, reproducing, displaying, knitting, manufacturing, weaving, printing, reprinting, publishing, vending, distributing, selling, promoting or advertising fabric or garments including copies of such fabric design or by causing and/or participating in such importing, reproducing, displaying, knitting, manufacturing, weaving, printing, reprinting, publishing, vending, distributing, selling, promoting or advertising by others.

- B. That Defendant be required to recall from all recipients thereof and deliver to Plaintiff Klauber for destruction, all copies of Plaintiff Klauber's copyrighted fabric designs used for infringement of the copyrights therein, as well as all molds, stencils, plates, or other materials for making such infringing matter in the possession or under the control of Defendant or any of its agents, servants, employees, attorneys or other persons in privity with it or them.
- C. That Defendant be required to pay to Plaintiff Klauber such profits as Defendant has made in consequence of the infringement by Defendant of Plaintiff Klauber's copyrighted fabric design and to account for all gains, profits and advantages relative to such infringement to be allowed Plaintiff Klauber by the Court or, at its option, in the alternative, to permit Klauber to recover statutory damages.

- D. That Defendant be required to pay Plaintiff Klauber's attorneys' fees and costs in this action.
- E. That Plaintiff Klauber have such other and further relief as this Court may deem just and appropriate.

**Jury Demand**

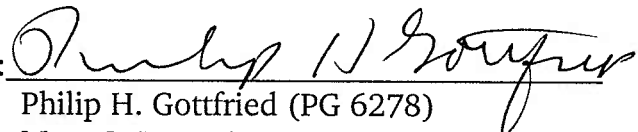
Plaintiff hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

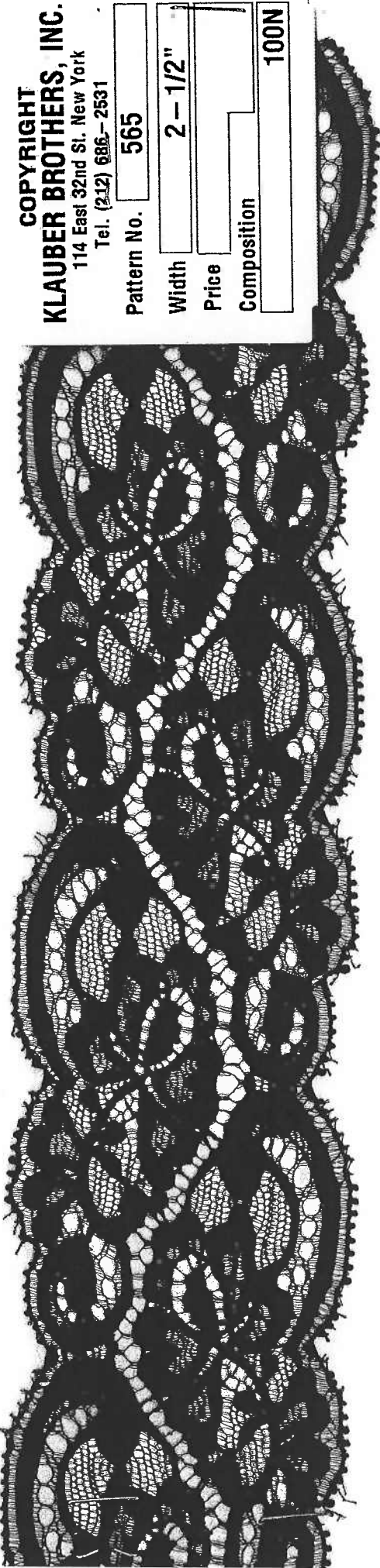
AMSTER, ROTHSTEIN & EBENSTEIN, LLP  
90 Park Avenue  
New York, New York 10016  
Telephone No.: (212) 336-8000

Attorneys for Plaintiff,  
Klauber Brothers, Inc.

Dated: June 29, 2007

By:   
Philip H. Gottfried (PG 6278)  
Marc J. Jason (MJ 0934)  
Holly Pekowsky (HP 5034)

# **Exhibit A**



**COPYRIGHT**  
**KLAUBER BROTHERS, INC.**  
114 East 32nd St. New York  
Tel. (212) 686-2531

Pattern No.	565
Width	2 - 1/2"
Price	
Composition	100N



# **Exhibit B**

# CERTIFICATE OF COPYRIGHT REGISTRATION

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UNITED STATES COPYRIGHT OFFICE  
REGISTRATION NUMBER



This certificate, issued under the seal of the Copyright Office in accordance with the provisions of section 410(a) of title 17, United States Code, attests that copyright registration has been made for the work identified below. The information in this certificate has been made a part of the Copyright Office records.

*Donald C Luman*

ACTING REGISTER OF COPYRIGHTS

United States of America

VA 196 346  
VA  
EFFECTIVE DATE OF REGISTRATION  
AUG 02 1985  
Month Day Year

OFFICIAL SEAL

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

Design 565

NATURE OF THIS WORK ▼ See instructions  
Design in lace

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

NAME OF AUTHOR ▼

Klauber Brothers Inc.

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?  
☒ Yes  
☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR { Citizen of U.S.A.  
Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No  
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼  
Design

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?  
☐ Yes  
☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR { Citizen of  
Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No  
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?  
☐ Yes  
☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR { Citizen of  
Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No  
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given in all cases.  
1985 Year

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK  
Complete this information ONLY if this work has been published.  
Month April Day 1 Year 1985  
U.S.A. Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Klauber Brothers Inc.  
114 East 32nd Street  
New York, NY 10016

TRANSFER If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED  
AUG 02 1985  
ONE DEPOSIT RECEIVED  
AUG 02 1985  
TWO DEPOSITS RECEIVED  
REMITTANCE NUMBER AND DATE  
641970 AUG 285

MORE ON BACK ▶ • Complete all applicable spaces (numbers 5-9) on the reverse side of this page.  
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2 pages

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

See instructions before completing this space.

VA

196 346

CHECKED BY

☐ CORRESPONDENCE  
Yes☐ DEPOSIT ACCOUNT  
FUNDS USEDFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

**PREVIOUS REGISTRATION** Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?  
☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼☐ This is the first published edition of a work previously registered in unpublished form.☐ This is the first application submitted by this author as copyright claimant.☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

**DERIVATIVE WORK OR COMPILATION** Complete both space 6a & 6b for a derivative work; complete only 6b for a compilation.a. **Preexisting Material** Identify any preexisting work or works that this work is based on or incorporates. ▼b. **Material Added to This Work** Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼**DEPOSIT ACCOUNT** If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.  
Name ▼ Account Number ▼**CORRESPONDENCE** Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

HELFAT AND HELFAT

19 Rector Street

New York, NY 10006

Area Code &amp; Telephone Number ▶ (212) 422-5770

**CERTIFICATION\*** I, the undersigned, hereby certify that I am the

Check only one ▼

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Klauber Brothers Inc.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this is a published work, this date must be the same as or later than the date of publication given in space 3

Roger Klauber, President

date ▶

5/28/85

Handwritten signature (X) ▼

Roger Klauber

MAIL  
CERTIFI-  
CATE TOCertificate  
will be  
mailed in  
window  
envelope

Name ▼	KLAUBER BROTHERS INC.
Number/Street/Apartment Number ▼	114 East 32nd Street
City/State/ZIP ▼	New York, NY 10016

## Have you:

- Completed all necessary spaces?
- Signed your application in space 8?
- Enclosed check or money order for \$10 payable to Register of Copyrights?
- Enclosed your deposit material with the application and fee?

MAIL TO: Register of Copyrights,  
Library of Congress, Washington,  
D.C. 20559.

\* 17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

\* U.S. GOVERNMENT PRINTING OFFICE: 1984-421-278/514

May 1984-30.000